

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

78/091,565

In re Registration No.: 3,320,350

In re Registration No.: 3,343,180

For the Mark : EPISODE

For the Mark : EPISODE

Registered on : Oct. 23, 2007

Registered on : Nov. 27, 2007

Ira Pazandeh DBA EPISODE AUDIO
Petitioner,

v.

Wirepath Home Systems, LLC

Registrant.


Cancellation No. 92052967

MOTION TO CONSOLIDATE

Pursuant to Fed. R. Civ. P. § 42(a), Petitioner Ira Pazandeh DBA EPISODE AUDIO, moves to consolidate the subject cancellation proceedings in the interest of judicial and pecuniary economy. The proceedings involve parallel parties, identical marks and common issues of law and fact. *Federated Department Stores, Inc. v. Gold Circle Insurance Co.*, 226 USPQ 262, 263 (TTAB 1985) (issues of fact and law substantially similar allowing consolidation).

Dated: 4/20/2011

Respectfully submitted,



IRA PANZANDEH
DBA EPISODE AUDIO
18700 Yorba Linda Blvd. #56
Yorba Linda, CA 92886

Petitioner



04-25-2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Consolidate Petitions for Cancellation of Registrations Nos. 3, 320,350 and 3,343,180 was forwarded this date to Robert H. Cameron, Esq., of Robinson, Bradshaw & Hinson, P.A., 101 North Tryon Street, Suite 1900, Charlotte, NC 28246 90210 via first class mail, postage prepaid.

Date

4/20/2011



Ira Pazandeh

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No.: 3,343,180
For the Mark : EPISODE
Registered on : November 27, 2007

| | | |
|--------------------------------|---|----------------------------|
| Ira Pazandeh DBA EPISODE AUDIO |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Cancellation No. |
| |) | 92052967 |
| |) | |
| Wirepath Home Systems, LLC |) | PETITIONER'S |
| |) | AMENDED |
| Registrant. |) | PETITION FOR |
| |) | <u>CANCELLATION</u> |

AMENDED PETITION TO CANCEL
Fraud

Petitioner hereby voluntarily dismisses its claim for fraud in the within proceeding and bases its petition for cancellation on the grounds of Priority and Likelihood of Confusion under Trademark Act Section 2(d) previously alleged and set out herein.

Priority and Likelihood of Confusion / Trademark Act section 2(d)

Petitioner Ira Pazandeh DBA EPISODE AUDIO, a sole proprietorship with a principal place of business at 18700 Yorba Linda Blvd., #56, Yorba Linda, CA 92886, believes it would be damaged by Registration No. 3, 343,180 for the mark EPISODE and hereby petitions, in accordance with 37 CFR § 2.111(b), to cancel said registration.

The grounds for cancellation are as follows:

1. Petitioner is the owner of the mark EPISODE AUDIO for audio speakers, loud speakers, loud speaker systems, speakers with built-in amplifiers and speaker enclosures.
2. Petitioner has made continuous use of the mark EPISODE AUDIO in interstate commerce with both actual use beginning January 2, 2005 and analogous use beginning October 29, 2004.
3. Since October 29, 2004, Petitioner has continuously used the mark EPISODE AUDIO as a fictitious business name for the purpose of design, research, manufacturing, marketing, advertising, promotion and consultation in the audio field; specifically, loudspeakers for consumer electronics.
4. Since January 2, 2005, Petitioner has continuously used the mark EPISODE AUDIO in interstate commerce in the United States in connection with audio speakers, loud speakers, loud speaker systems, speakers with built-in amplifiers and speaker enclosures.
5. Since at least April, 2005, Petitioner's goods bearing the mark EPISODE AUDIO have been the subject of nationwide publicity and media attention. As a result, Petitioner's EPISODE AUDIO mark has acquired an extensive and favorable reputation among consumers in the loudspeaker industry.
6. To the best of Petitioner's knowledge, the name and address of the current owner of the registration is WirePath Home Systems, LLC, 10405 Granite Street Suite F, in Charlotte, North Carolina; said registration (the "WirePath Registration") having been the subject of an application filed on March 8, 2007 for the following goods in Class 009: "audio speakers, loud speakers, loud speaker systems, speakers with built-in amplifiers, speaker enclosures" with a claimed first date of use of January 1, 2006.

7. Petitioner believes that it would be damaged by the WirePath Registration and hereby petitions, in accordance with 37 CFR § 2.111(b), to cancel said registration.

8. Petitioner's use of its EPISODE AUDIO mark has been valid and continuous since its date of first use.

9. Petitioner's use of its EPISODE AUDIO mark pre-dates Registrant's application for registration of, and first use of, the mark EPISODE and establishes priority of Petitioner's EPISODE AUDIO mark.

10. Registrant's mark, EPISODE, is virtually identical to Petitioner's mark EPISODE AUDIO.

11. Registrant's mark EPISODE is used on the identical goods as that of Petitioner's mark EPISODE AUDIO; namely, audio speakers, loud speakers, loud speaker systems, speakers with built-in amplifiers and speaker enclosures.

12. Petitioner's EPISODE AUDIO mark is symbolic of significant goodwill established by Petitioner and has acquired a high degree of recognition through Petitioner's expenditure of time, effort and money over the past many years to promote the goods bearing the EPISODE AUDIO mark. The EPISODE AUDIO mark serves as a unique identifier of the goods offered by Petitioner.

13. The goods covered by the WirePath Registration will be encountered by the same or similar class of purchasers as those who are interested in or familiar with the goods promoted, offered and provided by Petitioner.

14. The goods covered by the WirePath Registration and the goods used by Petitioner will be advertised, promoted, offered and distributed through the same or similar channels of trade to the same or similar classes of purchasers.

15. The same or similar goods, channels of trade and classes of purchasers of Petitioner and Registrant will be likely to cause confusion, cause mistake, or deceive purchasers all to the damage of Petitioner.

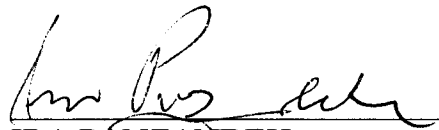
16. Registrant's claimed mark EPISODE so closely resembles Petitioner's mark EPISODE AUDIO currently in use as to be likely to cause confusion, cause mistake, and to deceive with consequent injury to Petitioner and the public when applied to Registrant's goods.

17. Registrant's claimed mark EPISODE so closely resembles Petitioner's mark EPISODE AUDIO currently in use that potential purchasers are likely to mistakenly believe that Petitioner is the source of Registrant's goods or that Petitioner has authorize, sponsored, approved of or in some other manner, associated itself with the goods of Petitioner, and such use will create a likelihood of confusion, deception, or mistake, all to the damage of Petitioner.

WHEREFORE, Petitioner respectfully requests that this Counterclaim for Cancellation be granted, and that Registration No. 3,343,180 be cancelled.

Dated: 4/20/2011

Respectfully submitted,



IRA PANZANDEH
DBA EPISODE AUDIO
18700 Yorba Linda Blvd. #56
Yorba Linda, CA 92886

Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Amended Petition for Cancellation was forwarded this date to Robert H. Cameron, Esq., of Robinson, Bradshaw & Hinson, P.A., 101 North Tryon Street, Suite 1900, Charlotte, NC 28246 90210 via first class mail, postage prepaid.

Date

4/120/2011

A handwritten signature in cursive script, appearing to read 'Ira Pazandeh', written over a horizontal line.

Ira Pazandeh